

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CEI ENTERPRISES, INC.,

Plaintiff,

v.

1:21-cv-01212-MIS-LF

PROFESSIONAL COATING
TECHNOLOGIES, INC., and
MARK WINKELMAN

Defendants.

ORDER ON MOTION TO COMPEL

THIS MATTER comes before the Court on Defendants Professional Coating Technologies, Inc. and Mark Winkelman's (collectively "PCT") Motion to Compel Answers to Defendants' First Set of Interrogatories and Defendants' First Request for Production (Doc. 71) and Memorandum in Support of Motion to Compel (Doc. 72), filed on September 26, 2022. Plaintiff CEI Enterprises, Inc., filed its response on October 11, 2022. Doc. 73. PCT filed a reply on October 25, 2022. Doc. 90. The Court held a hearing on the motion on January 25, 2023. Doc. 115. Having read the submissions of the parties and heard the argument of counsel, and for the reasons stated at the hearing, the Court finds that the motion is well taken in part.

The motion is therefore GRANTED IN PART and DENIED IN PART as follows:

I. Requests for Production

1. Request for Production No. 1: CEI will make a further review for documents and produce documents sufficient to show the owners, parents, subsidiaries, shareholders, officers, and directors for CEI from January 1, 2017, to the present.
2. Request for Production No. 2 is withdrawn.

3. Request for Production No. 7: To the extent not already produced, CEI will produce a list of the parts used on the automation facility in Oklahoma. If the parties cannot agree on the level of confidentiality, Ms. Davis will have to file another motion.
4. Request for Production No. 10 is withdrawn.
5. Request for Production No. 11: CEI will produce all complaints received between January 1, 2012, and January 31, 2018, relating to asphalt emulsion automation projects sold by CEI.
6. Request for Production No. 13: CEI will produce all documents and communications relating to the decision to close CEI in Albuquerque from June 1, 2018, to March 31, 2020.
7. Request for Production No. 17: CEI will produce all documents and communications relating to CEI's transfer of the PCT project to either Heatec or Astec upon CEI's closure.
8. Request for Production No. 20: CEI will supplement its response to add that it has produced the project file; the response is otherwise sufficient.
9. Request for Production No. 21: CEI's objection is sustained. No further supplementation is required.
10. Request for Production No. 22: This request is limited to the time during the PCT project. CEI will supplement its response to state that it has searched for responsive documents and has not found any.
11. Request for Production No. 23: CEI will supplement its response to state that it has conducted a reasonable search and has produced all responsive documents.

II. Interrogatories

1. Interrogatory No. 4: PCT will provide CEI with the name of the part(s) it is particularly interested in, and CEI will respond to the interrogatory with regard to that part(s).
2. Interrogatory No. 5: CEI will identify the name of the software program(s) that was installed in the PCT controls.
3. Interrogatory No. 6: PCT will provide CEI with up to four names, and CEI will provide these four people's titles, dates of employment, roles and responsibilities, and assignments with regard to PCT.
4. Interrogatory No. 7 is withdrawn.

5. Interrogatory No. 8: The interrogatory is limited in time from January 1, 2012, to January 31, 2018. CEI will respond to this interrogatory with this limitation.
 6. Interrogatory No. 9 is withdrawn.
 7. Interrogatory No. 10: To the extent not provided in documents responsive to Requests for Production 13 and 17, CEI will describe the timeline relating to the closure of CEI in Albuquerque, New Mexico, including the date(s) of decision, date(s) of notification to PCT, date(s) of notification to the public, and date(s) of notification to personnel.
 8. Interrogatory No. 12 is withdrawn.
 9. Interrogatory No. 13: CEI will identify the supplier of the pump(s) purchased by CEI from January 1, 2017, to the present for PCT's asphalt emulsion system and provide the listing description, the supplier's contact information, the part number, and the purchase price.
- III. PCT will provide additional information to CEI no later than February 1, 2023. CEI will supplement its responses no later than February 22, 2023.
- IV. The Court denies PCT's request for attorney fees and costs.
- V. The Court will take the privilege issue regarding Document 71-2 at 6, bates No. CEI016568, under advisement. CEI has provided an unredacted copy of that document to the Court for its *in camera* review.

IT IS SO ORDERED.


Laura Fashing
United States Magistrate Judge